IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF JANUARY
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 189 of 2006

Between:

T.Suguna

..... PETITIONER

AND

District Collector, Prakasam District (Civil Supplies),

Ongole and 10 others

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the proceedings in Rc.CS2/3723/2005, dated 26.12.2005 issued by the 1st respondent, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner, learned Government Pleader for Civil Supplies, appearing for the respondents 1 to 4, and the learned counsel for the respondents 5 to 11, who filed caveat.

The petitioner is a fair price shop dealer in respect of Panduvanagulavaram village, Veligandla Mandal of Prakasam District. It is stated that as certain representations filed by the villagers, making certain allegations against the petitioner, the Enforcement Deputy Tahsildar, Kanigiri inspected the fair price shop of the petitioner on 06.07.2004 and submitted a report to the 3rd respondent. Based on the said report, the authorization of the petitioner was suspended by the

3rd respondent by order dated 09.07.2004. Thereafter a show cause notice was issued on 07.07.2004, framing as many as seven charges against the petitioner. For the said show cause notice, the petitioner submitted her explanation on 30.08.2004, and after considering her explanation, the 3rd respondent cancelled the authorization of the petitioner, vide his orders dated 14.09.2004 in RCF/1370/04. As against the said order, the petitioner filed an appeal before the 2nd respondent, and the appellate authority, by orders dated 30.09.2005 in Rc.CS2/3878/2004, allowed the appeal. As against the said appellate order, the complainants-cardholders filed revision before the

1st respondent and the 1st respondent, even after filing a caveat bythe petitioner, without hearing the petitioner, granted ex parte stay. Questioning the said ex parte stay orders, the petitioner filed W.P.No.25056/2005, which was disposed of by this Court on 24.11.2005, setting aside the ex parte stay orders passed by the 1st respondent and directed the revisional authority to consider and dispose of the revision, after giving a reasonable opportunity to the petitioner as well as the

revision petitioners. The revisional authority allowed the appeal by order dated 26.12.2005 in Rc.CS2/3723/2005 and the operative portion of the impugned order reads as follows:

> "After under going adjournments, this case is finally came up for hearing. Heard the arguments of the counsel for the revision petitioner and the respondent. After perusing the records it is noticed that the Joint Collector failed to see that the dealership authorization of the respondent was cancelled but not suspended pending enquiry. Clause 5(4) of Andhra Pradesh State Public Distribution System (Control) Order, 2001 is specified for such cases where dealership authorizations are suspended pending enquiry. The allegations leveled against the respondent dealer is not trivial in nature. The Revenue Divisional Oficer has cancelled the dealership authorization of the respondent after due procedure and thorough enquiry. Further this is not the first instance of committing irregularities by the dealer. Previously a case was booked against the respondent dealer by the Circle Inspector, Vigilance Cell, and the Joint Collector, Ongole confiscated the entire seized stock in favour of Government. As per the control order, where a Fair Price dealer has been convicted by a court of law in respect of contravention of any order made Section-3 of Essential Commodity Act, 1955 (Central Act 10 of 1955) relating to any of the commodities mentioned in the scheduled to this order, the appointing authority, shall, by order in writing, cancel his authorization. The Hon'ble High Court of Andhra Pradesh in W.P.No.21116 of 2005 dated 29.09.205 reiterated that a clause is specifically provided under the control order, 2001 for suspension or cancellation of the authorization if the Fair Price Shop dealer is involved in any Criminal Case or even in any case under the Essential Commodity Act. In view of the above facts and circumstances of the case, I, set aside the orders of the Joint Collector, Ongole issued in proceedings No.D.Dis.CS2/3878/2004, dated 30.09.2005. The revision petition is disposed of accordingly."

A perusal of the order of the revisional authority goes to show that the revisional authority has allowed the revision on a different ground that previously the petitioner has been convicted in a Court of law. No particulars of the case relating to the conviction under the provisions of the Essential Commodities Act are furnished. However, that is not one of the allegations of the charges framed against the petitioner. The revisional authority allowed the revision on a different ground which was not at all brought to the notice of the petitioner during the course of enquiry.

The allegations made in the show cause notice are all general, vague and not specific. Therefore, it is not just and proper to cancel the authorization on general and vague allegations without furnishing any material particulars. In view of the aforesaid ambiguity of the allegations, it may not be just and proper to cancel the authorization of the petitioner.

Having regard to the facts and circumstances of the case, the impugned order of the 1st respondent dated 26.12.2005 is set aside and the 3rd respondent is directed to frame specific charges against the petitioner by giving a show cause notice, and pass appropriate orders, after considering the explanation of the petitioner, in accordance with law.

With the above observations, the Writ Petition is disposed of. No order as to costs.

_____

V.ESWARAIAH,J

Dated: 05.01.2006

Dsr